

### Remarks

Upon entry of this amendment claims 1-25 are pending. Claims 1 and 25 are amended. Support for the amendments can be found throughout the specification. Support for the term “permanently” can be found at least on page 3, lines 24 to 26 in the Specification, wherein the use of the word “may” makes it apparent that the strips may also not be realizable attached, i.e., they may be permanently attached.

No new matter has been added.

#### Claim rejection under 35 U.S.C. §103

Claims 1-25 are rejected as being unpatentable over Craig in view of Bogema.

To establish *prima facie* obviousness of a claim, the prior art must disclose or suggest each element of the claim; there must be some reason that would have prompted one of ordinary skill in the art to combine the elements and/or modify a reference(s) so as to reach the requirements of the claim; and there must have been a reasonable expectation of success of the combination and/or modification. MPEP § 2143; *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. \_\_\_, Slip Op No. 04-1350, 119 Fed. Appx. 282 (April 30, 2007).

The Examiner acknowledges that Craig fails to teach at least one strip for detecting alcohol. Craig also fails to teach a kit comprising the device. Bogema discloses a kit comprising more than one test strip for detecting drugs of abuse and alcohol.

However, in Craig, the test devices are individual beverage analysis samplers, and, as shown in figures 16A, 16B, and 21 are removably separated from a packaging support (see column 14, lines 41-50 and column 16, lines 39-46). This separation is achieved by a reduction in the polymer material where the samplers meet the support. Thus the samplers are specifically designed to be removed from the support and are not permanently attached as required by the newly-amended claim 1.

Bogema discloses the assay and collection of saliva. In contrast, the test kit of the present invention is a test for drugs in a beverage. Furthermore, there is no teaching or suggestion in Bogema of a test kit consisting of a support having

detector strips permanently attached thereto, which is sized such that when it is folded into two parts, a first part is laid over the strips and the strips are attached to the second part, as is required by the newly-amended claim 1.

The combination of Craig and Bogema does not disclose all of the features of the newly-amended claim 1 and therefore does not render the present invention obvious.

Furthermore, it should be noted that, since Bogema relates to an assay and collection of saliva, the skilled artisan would not be motivated to combine its teaching with Craig, since Craig relates to the analysis of beverages.

Thus, the Office Action fails to make a *prima facie* case of non-obviousness. Accordingly, Applicant requests the current rejection be withdrawn and that the claims be allowed.

### Conclusion

Applicants believe that the claims as currently presented are in a condition for allowance and such favorable action is respectfully requested. Please contact the undersigned with any questions.

Applicants believe there is no fee due at this time. However, the Commissioner is hereby authorized to charge any applicable fees to Deposit Account No. 19-3140.

Respectfully submitted,

SONNENSCHEIN NATH & ROSENTHAL LLP

/G. Harley Blosser/

By: \_\_\_\_\_  
G. Harley Blosser  
Reg. No. 33,650  
Telephone No. 314 259-5806

ATTORNEYS FOR APPLICANT